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UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re)	
)	Case No. 11-62723
Olsen Agricultural Enterprises LLC,)	
an Oregon limited liability company,)	Chapter 11
)	
Debtor.)	DECLARATION OF JAMES E. OLSEN
)	IN SUPPORT OF FIRST DAY MOTIONS
)	
)	

I, James E. Olsen, declare as follows:

I.

INTRODUCTION

1. I am competent to testify to the matters in this Declaration. Except as otherwise indicated, the statements herein are based on my personal knowledge or on information learned from my review of the books and records of Olsen Agricultural Enterprises LLC (the "Debtor"). I am authorized to submit this Declaration on behalf of the Debtor and, if called upon to testify, I could and would testify competently to the facts set forth herein.

2. I am the Marketing Director, a manager and a member of the Debtor. Prior to the merger described in paragraph 7 below, I was the President and Chief Executive Officer, a director and a shareholder of Olsen Agricultural Company, Inc., an Oregon corporation

1 (“OAC”). I am familiar with the day-to-day operations, business affairs, and books and records
2 of the Debtor.

3 3. This Declaration will provide the court with background information about the
4 Debtor as well as a context for the relief being sought in the Debtor’s “first day” motions (each a
5 “First Day Motion”). To that end, this Declaration is organized into three parts: (a) an overview
6 of the Debtor and its business; (b) a summary of the events leading up to this Chapter 11 case;
7 and (b) an explanation of the grounds for the relief sought by the First Day Motions.

8 **II.**

9 **COMPANY OVERVIEW**

10 4. OAC was incorporated in Oregon on January 1, 1988, under the name Pinnacle
11 Grass Seed Farm Company. It changed its name to Jenks-Olsen Farms, Inc. on March 24, 1988,
12 and conducted operations under that name until February 7, 2006, when it changed its name to
13 Olsen Agricultural Company, Inc. OAC was at all times prior to the merger described in
14 paragraph 7 below an S corporation for federal income tax purposes.

15 5. The founders of OAC and the current beneficial owners of the Debtor’s
16 ownership interests are descendants of Oregon Trail pioneers who settled in the Willamette
17 Valley. The Jenks and Olsen families have owned and operated farms in the Willamette Valley
18 for five generations.

19 6. The Debtor operates an agricultural enterprise on approximately 7,762 acres of
20 owned and leased land located in Benton, Linn and Polk Counties. Its business
21 is comprised principally of three divisions: (a) Olsen Seed Company, which produces and sells a
22 variety of grass seed and grains on approximately 5,934 acres; (b) Olsen Agriculture, which
23 grows and sells peppermint, nursery stock, squash, hazelnuts and blueberries on approximately
24 1,334 acres; and (c) Olsen Family Vineyards, which grows a variety of grapes on approximately
25 494 acres and produces and sells quality wines under the “Viridian” label as well as private
26 labels. As of the date hereof, the Debtor has 45 employees, including management personnel.

1 The Debtor's headquarters are located in Monmouth, Oregon.

2 7. The Debtor is the surviving entity of a merger transaction that was consummated
 3 on June 1, 2011. In the merger transaction, OAC, Jenks-Olsen Land Co., an Oregon general
 4 partnership ("JOLC"), Olsen Vineyard Company, LLC, an Oregon limited liability company
 5 ("OVC"), and The Olsen Farms Family Limited Partnership, an Oregon limited partnership
 6 ("OFFLP") were merged with and into the Debtor. OAC, JOLC, OVC and OFFLP were co-
 7 borrowers under the term loan made by AXA Equitable Life Insurance Company ("AXA"), and
 8 OAC, JOLC and OVC were co-borrowers under the line of credit loans made by Rabo
 9 Agrifinance, Inc. ("Rabo"). In connection with the merger transaction, I and other related parties
 10 that pledged real estate collateral to support the line of credit loans agreed to contribute such
 11 property to the Debtor in exchange for the right to receive ownership interests in the Debtor.
 12 The Debtor's ownership interests are owned by me, certain relatives, a family trust and Olsen
 13 Land Holding, LLC.

14 8. For the fiscal year ended December 31, 2010, OAC reported total revenues of
 15 \$6,428,880 and a net loss of (\$5,791,310). At the time of the merger, on a consolidated basis,
 16 the books and records of OAC, JOLC and OVC reflected assets totaling approximately \$29.8
 17 million and liabilities totaling approximately \$37.2 million. The fair market value of the
 18 Debtor's assets is significantly greater than their book values, particularly in the case of fixed
 19 assets. In my opinion, the fair market value of the Debtor's assets, on a going concern basis, is
 20 approximately \$50 million.

21 III.

22 EVENTS LEADING TO THE CHAPTER 11 FILING

23 9. Historically, OAC's core business was growing and selling grass seed and other
 24 crops. Beginning in 2004, OAC entered the winery business and planted its first vineyard.
 25 Additional vineyards were planted in 2005, 2006 and 2007. Together, OAC and OVC invested
 26 more than \$15 million in the winery business.

10. In order to fund capital expenditures and provide needed working capital, OAC sought financing in 2007. The financing was obtained from AXA, for which Rabo originated a \$15 million term loan as AXA's investment advisor, and from Rabo, which initially extended a \$10 million line of credit facility. The AXA term loan and the Rabo line of credit loan are collectively referred to as the "Rabo Loans."

(a) The AXA term loan is (i) evidenced by a promissory note dated September 7, 2007, executed by OAC, JOLC, OVC and OFFLP, (ii) secured by deeds of trust that encumber all or substantially all of the Debtor's real property, and (iii) supported by the personal guaranties of Carolyn A. Olsen, Roger P. Olsen, and James E. Olsen. On March 18, 2011, the AXA term loan was purchased by and assigned to Rabo. As of the date hereof, the amount payable under the AXA term loan is approximately \$14,240,000.

(b) The Rabo line of credit facility was made pursuant to a credit agreement dated February 19, 2008. It is (i) evidenced by a line of credit note dated February 19, 2008, in the original principal amount of \$10 million, which was amended and restated by a replacement note dated September 23, 2010, in the principal amount of \$14,641,757.21, executed by OAC, OVC, JOLC, James E. Olsen, Roger P. Olsen and Robin G. Olsen, and (ii) secured by a security interest in substantially all of the Debtor's personal property pursuant to a security agreement dated as of February 19, 2008, and by deeds of trust that encumber all or substantially all of the Debtor's real property. As of the date hereof, the amount payable under the Rabo line of credit loan is approximately \$15,580,000.

11. The grass seed industry has strong ties to the homebuilding industry. The "Great Recession" of 2007 created a crisis of epic proportions in the homebuilding industry which, in turn, caused a significant and sustained decrease in demand for grass seed. Those difficulties harmed grass seed growers by further increasing the supply of grass seed and negatively impacting pricing conditions. The market prices of OAC's grass seed products dropped precipitously in 2008, 2009 and 2010 as compared to the market prices during the prior three

1 year period. As a result, OAC's revenues declined significantly and it suffered operating losses
2 in 2008, 2009 and 2010.

3 12. The confluence of these events profoundly affected OAC's performance during
4 the past three fiscal years. OAC struggled financially since 2008 due to reduced sales and
5 inadequate working capital. The Rabo line of credit facility fell into default just months after
6 that loan closed, and the parties entered into a series of forbearance agreements beginning on
7 November 28, 2008. On April 25, 2011, Rabo gave OAC and the other co-borrowers and
8 guarantors formal notice of default under the Rabo Loans.

9 **IV.**

10 **THE FIRST DAY MOTIONS**

11 13. The Debtor commenced this Chapter 11 case in order to allow it to develop and
12 implement a comprehensive financial and operational restructuring strategy using the tool box
13 and protections of the Bankruptcy Code. The prime objectives of these proceedings are to (i)
14 continue the Debtor's business operations uninterrupted during the restructuring process, (ii)
15 obtain secured credit under section 364 to fund working capital and operational needs, (iii) sell
16 non-essential assets, free and clear of liens, for the purpose of generating additional cash to help
17 fund its obligations (including the administrative expenses of the Chapter 11 case) going forward
18 and to provide adequate capitalization for the reorganized Debtor, (iv) restructure the payment
19 terms of the Debtor's debts pursuant to a plan of reorganization that will provide for payment in
20 full of its debts over time, and (v) preserve significant value for the Debtor's equity interest
21 holders.

22 14. A smooth and seamless transition into Chapter 11 is essential for the Debtor. It is
23 critically important for the Debtor to remain on favorable terms with its employees, lessors,
24 vendors, suppliers and distributors to insure that current operations continue uninterrupted. It is
25 also crucial for the Debtor to maintain the loyalty and goodwill of its employees, customers and
26 others with whom it does business. To achieve these objectives, the Debtor must be able to

1 continue farming operations and related activities in the ordinary course of business.

2 15. The First Day Motions seek relief that will allow the Debtor to continue its
3 business operations without undue disruption or loss of productivity as a result of the Chapter 11
4 filing, thereby preserving and maximizing the value of the bankruptcy estate.

5 16. I am generally familiar with the contents of each First Day Motion. Based on that
6 familiarity and on my knowledge of the Debtor's business, I believe that the relief sought in each
7 First Day Motion (i) is necessary to enable the Debtor to operate in Chapter 11 with minimal
8 disruption or loss of productivity and value, (ii) constitutes a critical element to achieving a
9 successful reorganization of the Debtor, and (iii) best serves the interests of the estate. The
10 failure to obtain the relief sought by the First Day Motions, taken as a whole, could immediately
11 and irreparably harm the Debtor's business and the value of the estate.

12 **A. Debtor's Motion for Authorization to Use Cash Collateral on Interim and Final**
13 **Basis (the "Cash Collateral Motion")**

14 17. The Debtor needs the immediate ability to use cash collateral for, among other
15 things, continuing the operation of its business in an orderly manner, making deposits with utility
16 service providers, paying payroll and other postpetition operating expenses, and satisfying other
17 working capital and operational needs -- all of which are vital to preserving and maintaining the
18 value of the Debtor's estate and, ultimately, effectuating a successful reorganization for the
19 benefit of all parties in interest.

20 18. The Debtor is seeking immediate authority to use up to \$450,000 of cash
21 collateral on an interim basis to insure that it is able to continue business as usual pending a final
22 hearing on the Cash Collateral Motion. A cash collateral budget which details the projected
23 sources and uses of the Debtor's cash for the period May 30, 2011, through December 31, 2011,
24 is attached to the Cash Collateral Motion as Exhibit A. I believe that the Debtor's use of cash
25 collateral on an interim basis is necessary to avoid immediate and irreparable harm to the estate.
26 Absent the court's approval of this request, the Debtor will have to curtail or terminate its

1 business operations to the detriment of all parties in interest. Among other things, the
 2 termination of business operations would result in the loss of a sizable investment made in the
 3 Debtor's growing crops.

4 19. The Debtor's use of cash collateral will not harm the interests of Rabo or of the
 5 other creditors whose interests might be affected by such use if such creditors are provided the
 6 adequate protection offered by the Debtor in the Cash Collateral Motion.

7 **B. Motion for Authorization to (1) Pay Prepetition Priority Claims for Wages and**
 8 **Salaries and Related Payroll Taxes, (2) Pay Prepetition Priority Employee Benefit**
 9 **Plan Contributions, and (3) Continue Employee Benefits Postpetition (the "Wages**
 10 **Motion")**

11 20. The Debtor's employees perform a wide variety of critical functions and provide
 12 essential services without which the Debtor would be unable to function. The employees' skills
 13 and their knowledge and understanding of the Debtor's operations, customer relations, and
 14 infrastructure are vital to the Debtor's efforts to reorganize.

15 21. Just as the Debtor depends on its employees to operate its business, the employees
 16 depend on the Debtor. I understand that the vast majority of employees rely exclusively on their
 17 wages or salaries to pay their daily living expenses. The employees will be exposed to extreme
 18 personal hardship if the Debtor does not obtain the authority
 19 to pay promptly the full amount of their accrued wages and salaries and to continue existing
 20 employee benefits. The likely consequence of an interruption in pay to employees would be
 21 employee defections, unmanageable turnover, resentment, loss of goodwill and disintegration of
 22 employee morale. For these reasons, I believe that the granting of the relief sought by the Wages
 23 Motion is necessary to avoid immediate and irreparable harm to the estate.

24 22. In the ordinary course of its business, the Debtor pays its employees bi-weekly, in
 25 arrears, on every other Friday. The next regular payroll date is June 3, 2011, for services
 26 performed but unpaid through June 2, 2011. The last regularly scheduled payroll date was May

1
 2 20, 2011. On May 27, 2011, in anticipation of the commencement of this case, the Debtor made
 3 a special payroll for the estimated amounts of salaries and wages that had accrued during the
 4 period May 21, 2011 through May 31, 2011. In connection with that special payroll, the Debtor
 5 also paid all withholding and payroll taxes related to the salaries and wages that were paid. As a
 6 result of that special payroll, the only amounts that remain owing and unpaid to employees for
 7 prepetition services -- absent error in the estimation procedure and assuming that all payroll
 8 checks and electronic funds transfers have cleared or been completed -- are those for accrued
 9 vacation, sick leave and other "paid time off." Attached to the Wages Motion as Exhibit A is a
 10 schedule that lists, for each employee, the employee's name, the total amount of earned but
 11 unused paid time off benefits, and the amount that the Debtor has determined is entitled to
 12 priority under section 507(a)(4) of the Bankruptcy Code.

13 23. The Debtor has no employee benefit plan or program under which it is obligated
 14 to pay contributions for benefits other than its workers' compensation insurance policies. The
 15 Debtor estimates that the total amount of accrued but unpaid prepetition obligations under its
 16 workers' compensation insurance policies does not exceed \$5,000. Those insurance obligations
 17 will not become payable in the ordinary course of business until a later date.

18 **C. Motion for Determination that Adequate Assurance of Payment has been Furnished**
 19 **to Utility Companies (the "Utilities Motion")**

20 24. In connection with the operation of its business, the Debtor obtains electricity,
 21 gas, water, sewer services, waste management services, telephone services, internet services, and
 22 similar services from numerous utility companies. Attached to the Utilities Motion as Exhibit A
 23 is a schedule that lists, for each utility provider, the name of the utility, the service it provides,
 24 the total amounts billed by that provider to the Debtor during the last service period immediately
 25 preceding the bankruptcy filing, and the amount of the Debtor's proposed cash deposit.

26 25. It is essential that utility services continue to be provided to the Debtor

1
2 uninterrupted. If utilities companies are permitted to terminate utility services, even for a brief
3 period of time, substantial harm to the Debtor's business could occur. To avert that harm, the
4 Debtor could be forced to provide whatever assurance of payment that might be demanded by its
5 utility service providers. For these reasons, I believe the granting of the relief sought by the
6 Utilities Motion is necessary to avoid immediate and irreparable harm to the estate.

7 I declare under penalty of perjury that the foregoing is true and correct to the best of my
8 knowledge.

9 Dated: June 1, 2011.

10 /s/ James E. Olsen

CERTIFICATE OF SERVICE

I hereby certify that the foregoing DECLARATION OF JAMES E. OLSEN IN SUPPORT OF FIRST DAY MOTIONS, was served by electronic notice through the bankruptcy court's ECF system on the U.S. Trustee (Eugene):

USTPRegion18.eg.ecf@usdoj.gov

and on all parties listed on the attached List of Interested Parties by the methods indicated. Unless another method of service is indicated, service was made by placing a copy thereof in a sealed, first-class, postage prepaid envelope, addressed to each party's last known address and depositing the same into the United States mail at Portland, Oregon on the date set forth below.

Dated: June 1, 2011.

/s/ David A Foraker

David A. Foraker, OSB #812280
Attorney for Debtor

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List of Interested Parties

(Olsen Agricultural Enterprises LLC)

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\\7095\O List of Interested Parties (Master Service List).wpd